



BOARD OF ADJUSTMENT

AGENDAS & MINUTES

MINUTES OF JULY 19, 2010

The regular meeting of the Sussex County Board of Adjustment was held on Monday July 19, 2010, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman, and Mr. Jeff Hudson, with Mr. Richard Berl – Assistant County Attorney and staff members, Mrs. Susan Isaacs-Chief Zoning Inspector, and Mrs. Jennifer Norwood-Recording Secretary.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously to approve the Revised Agenda as circulated. Vote carried 5 – 0.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously to forward the approval of the Minutes for July 12, 2010 until the next regular meeting which will be August 2, 2010. Vote carried 5 – 0.

Mr. Berl read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 10657 – Steven Szypulski – east of Front Street, 100 feet north of Mallard Street, being Lot 107 within Joseph Short Subdivision.

A variance from the front yard and side yard setback requirements.

Mrs. Isaacs presented the case. Steve Szypulski was sworn in and testified requesting a 10-foot variance from the required 30-foot front yard setback requirement and a 1.8-foot variance from the required 10-foot side yard setback requirement for a proposed porch with a sun deck; that the property was purchased in September 2001; that the existing dwelling already encroached into the setback requirements; that the proposed porch is needed to gain a second entrance to the dwelling; that the original placement of the dwelling creates a uniqueness; that the porch will not alter the character of the neighborhood; and that having only one existing exit creates a hazard if a fire were to occur.

The Board found that no parties appeared in support or in opposition to the application.

Motion by Mr. Mills, seconded by Mr. McCabe, and carried unanimously that the variances be **granted since it meets standards for granting a variance**.
Vote carried 5 – 0.

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Case No. 10658 – Oak Orchard/Riverdale American Legion Post 28 – east of Route 24, 550 feet north of Road 297.

A variance from the rear yard setback requirement.

Mrs. Isaacs presented the case. Lee Glasgow was sworn in and testified requesting a 10-foot variance from the required 20-foot rear yard setback requirement for a proposed addition; that the proposed 40'x60' addition will be used for storage; that the existing septic system, parking and A/C units prevent the addition from being built elsewhere on the property; and that the adjacent neighbor is a member of the American Legion Post 28.

The Board found that no parties appeared in support of or in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the case be taken under advisement. Vote carried 5 – 0.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the variance be **granted since it will enable reasonable use of the property**.
Vote carried 5 – 0.

Case No. 10659 – Tom and Carol Burn – north of Road 273, west of Kings Creek Circle, being Lot 28, Section 2 within Kings Creek Country Club development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Tom Burn and Towar Hudson, his builder, were sworn in with Chris Holman, Attorney, and testified requesting a 3.6-foot variance from the required 15-foot side yard setback requirement for an existing porch; that the builder has been building in the County since 1972 and has never had to file for a variance; that the property had an existing deck with a canvas roof; that the builder stated that he called the office and was told that the side yard setback requirement for this lot was 15-foot; that because the existing structure was about 12-foot from side yard they believed this information to be correct; that the Homeowner's Association approved the structure; that

the adjacent neighbor has no objection to the application; and that they submitted pictures and copies of surveys.

By a show of hands, 4 parties appeared in support of the application.

Mrs. Isaacs stated that the office received 1 letter in support of the application.

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The Board found that no parties appeared in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it will not alter the character of the neighborhood and is the minimum variance to afford relief**. Vote carried 5 – 0.

Case No. 10660 – Christopher M. Holmon and John Jablonski – east of Road 42, being Lot 2 within Wheatley Marvel Development Corporation development.

A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Chris Holmon, Attorney, testified on behalf of the applicant requesting a 10.3-foot variance from the required 15-foot side yard setback requirement for an existing garage; that the garage was built in 2005; that the Certificate of Compliance was issued in 2005; that the encroachment was discovered at settlement; that the garage does not alter the character of the neighborhood; that the unique shape of the lot depicts it as long and narrow; and that it does not substantially affect adversely the use of the adjacent and neighboring properties.

By a show of hands, 2 parties appeared in support of the application.

By a show of hands, 1 party appeared in opposition to the application.

Gene Stover was sworn in and testified in opposition to the application and stated that he is the neighbor; that the previous owner advised him the variance request was to place blacktop up to the property line; and that he has no objection to the variance for the existing garage.

Patty Wyle was sworn in and asked who the Wheatley Marvel Development Corporation.

The Applicants Attorney offered an explanation.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.
Vote carried 5 – 0.

Case No. 10661 – CMF Bayside, LLC – north of Road 394, 929 feet southeast of Route 54, within American Bayside development.

A special use exception to retain manufactured homes as offices.

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Mrs. Isaacs presented the case. Doug Brown was sworn in with Tim Willard, Attorney, and testified requesting a special use exception to retain a manufactured home as an office; that the Board previously approved the special use exception in April 2005; that 2-units have been removed; that the remaining unit is used for sales and golf administration offices; that due to the economic situation the sales have slowed and the time extension on the unit is needed; and that the unit will be removed when the project is complete.

The Board found that no parties appeared in support of or in opposition to the application.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for a period of five (5) years**.
Vote carried 5 – 0.

Case No. 10662 – Schejn D. Oliphant – north of Route 26.

A variance from the side yard setback requirement for a manure shed.

Mrs. Isaacs presented the case. Schejn Oliphant was sworn in and testified requesting a 25-foot variance from the required 50-foot side yard setback requirement for a manure shed; that he wants the proposed manure shed to line up with the existing manure shed; that the existing manure shed only had to 25-foot from the side yard when it was built; that the adjacent property is farmland; that the proposed manure shed will be over 1,000-yards from the neighbor's dwelling; that the proposed location will allow room for the tractor trailers to access the existing chicken houses; and that he must have an additional manure shed to meet Federal Government regulations.

By a show of hands, 1 party appeared in support of the application.

By a show of hands, 1 party appeared in opposition to the application.

Sandi Spence was sworn in and testified in objection to the directions given to the public notice for the application.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.
Vote carried 5 – 0.

Case No. 10663 – Robert Kenny – southwest of Road 590 (Mile Stretch Road), 320 feet north of Road 583, being Lot 4A.

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A variance from the side yard setback requirement.

Mrs. Isaacs presented the case. Steve Luco & Jessica Bradley were sworn in and testified requesting a 0.9-foot variance from the required 10-foot side yard setback requirement for an existing detached garage; that the detached garage measures 32'x66'; that a Certificate of Compliance was issued in October 2006; that the survey for settlement showed the encroachment; that the neighbor has no objection to the application; and that the survey shows two different iron rods marking the property.

The Board found that no parties appeared in support of or in opposition to the application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted since it meets the standards for granting a variance**.
Vote carried 5 – 0.

Case No. 10664 – 26 Centre, LLC – east of U.S. Route 113, west of Road 334.

A special use exception to place a billboard, a variance for additional signs on a billboard, a variance from the maximum height and square footage requirements, and a variance from the setback requirements for a billboard.

Mrs. Isaacs presented the case. Andrew Timmons was sworn in and testified requesting a special use exception to place a billboard, a 10-foot variance from the required 25-foot maximum required height for a billboard, a 552-square-foot variance from the 600-square-foot maximum allowable square footage requirement for the billboard to be relocated, a 10-foot variance from the required 25-foot maximum height requirement for billboard “A”, a 552-square-foot variance from the required 600-square-foot maximum allowable square footage for billboard “A”, a 5-foot variance from the required 25-foot maximum height requirement for billboard “B”, a 600-square-foot variance from the required 600-square-foot maximum allowable square footage for billboard “B”, and a 5-foot variance from the required 25-foot maximum height

requirement for billboard “C”, and 600-square-foot variance from the required 600-square-foot maximum allowable square footage for billboard “C”; that they propose to renovate 2 existing billboards and erect 2 new billboard; that all billboards will be steel monopole structures; that they have been in the billboard business for 30-years; that they own the adjacent rental properties; that the property currently used for the sale of small sheds; and that he submitted a packet of information.

Sandi Spence asked the Board what the standards for granting a special use exception were.

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Mrs. Isaacs stated that the Applicant submitted 9-letters in support of the application.

The Board found that no parties appeared in support of or in opposition to the application.

Motion by Mr. Hudson, seconded by Mr. McCabe, and carried unanimously that the case be **tabled until August 2, 2010**. Vote carried 5 – 0.

OLD BUSINESS

Case No. 10631 – Hertrich Properties V, LLC – southwest intersection of Road 485 and U. S. Route 13.

A special use exception to replace billboards, a variance from the maximum allowable square footage for a billboard, and a variance from the setback requirement from a dwelling, church, school, public lands or another sign.

The Board discussed the case, which has been tabled since June 7, 2010.

Motion by Mr. Mills, seconded by Mr. McCabe, that the case be **tabled until August 16, 2010**. Vote carried 4 – 1, with Mr. Workman voting against the motion.

Case No. 10645 – Thomas Kelly – east of Road 271, south of Worcester Road, being Lot 11 within Canal Point development.

A variance from the rear yard setback requirement.

The Board discussed the case, which has been tabled since July 12, 2010.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **denied since it does not meet the standards for granting a variance**.

Vote carried 5 – 0.

Case No. 10646 – Fred Kling – south of Route 22, north of Salt Marsh Loop, being Lot 253 within White House Beach Mobile Home Park.

A variance from the separation requirement between units in a mobile home park.

The Board discussed the case, which has been tabled since July 12, 2010.

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Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variance be **granted since it meets the standards for granting a variance.**
Vote carried 5 – 0.

Case No. 10649 – Mary DiVirgilio and Joseph Cofrancesco – Road 273A, southwest of Eagle Drive, being Lot 29 within Bald Eagle Village development.

A variance from the front yard setback requirement.

The Board discussed the case, which has been tabled since July 12, 2010.

Motion by Mr. McCabe, seconded by Mr. Workman, and carried unanimously that the variance be **granted for an 8.1-foot variance since it will not alter the character of the neighborhood and is the minimum variance to afford relief.**
Vote carried 5 – 0.

Case No. 10653 – Nick Shevland and Heather Cannon – west of Road 346, being Lot 3 within Blackwater Cove III development.

A special use exception for a day care facility.

The Board discussed the case, which has been tabled since July 12, 2010.

Motion by Mr. McCabe, seconded by Mr. Mills, and carried unanimously that the special use exception be **granted since it will not substantially effect or alter the neighborhood.** Vote carried 5 – 0.

Meeting Adjourned 8:45 p.m.